

the things that are available to protect an individual's life should be available to those who go out to fight.

What we have found in this present war in Iraq is that people on the top, with their class-conscious sentiments at work, did not provide at first the kind of protection that should have been provided to the soldiers on the front lines out there. The soldiers come from the same working families. I cannot stress enough the need for all Americans to recognize that we are all in this together.

We have a governor of New York State now whose son was in the National Guard in a program that required that, once he came out, he had certain duties and obligations. This governor's son now is asking for a waiver. He does not want to go to Iraq; he wants a waiver. What kind of a message is that sending to all of the mothers and fathers of young men and women who have gone off to fight in Iraq in terms of our society? The person with the power does not want to make a sacrifice of his son.

Mr. BOEHNER. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, let me remind my colleagues what this small, innocuous bill does. It says to the Secretary of Labor and to OSHA that the arbitrary, 15-day deadline that is in the statute for complying with an OSHA citation or to respond to OSHA can, in fact, be waived under special circumstances, if OSHA believes that the employer missed it by accident or had other extenuating circumstances, they have the option of extending the 15-day deadline. That is all this bill does.

Now, some of my colleagues on the other side have suggested, well, no, they already have this authority. But the fact is, they do not. The ability of the commission to waive a deadline on a case-by-case basis when circumstances warrant it have been drawn into increased legal uncertainty by the recent decision of the U.S. Circuit Court of Appeals for the Second Circuit in *Chao v. LeFrois Builder, Incorporated*, and indeed, as recently as 2003, OSHA has argued that OSHRC does not have the authority to apply this rule.

So we think that voluntary cooperation between OSHA and the employer community will, in fact, lead to a safer workplace. And as the chart showed that I displayed earlier, workplace injuries and fatalities have continued to decrease in each year of the Bush administration.

Let us make this commonsense change to help employers and their workers achieve a safer workplace.

Mr. GENE GREEN of Texas. Madam Speaker, I rise today in opposition to these measures. This legislation moves in the wrong direction for worker safety.

We are spending valuable time changing small portions of OSHA to overturn court decisions and tweak the law to benefit industry.

I'm not sure we should be spending time addressing all these small issues when we

know that reporting requirements are a problem and we could be doing something about it.

It doesn't matter in which facility these accidents occurred. The fact is people should know if an accident has occurred and the company managing the site should report it whether contract workers were involved or not.

If someone is seriously injured at my home, regardless if I'm at fault, there will be a report by the paramedics or the police and it will list my residence.

In March, fifteen people were killed in a refinery accident in Texas City. None of them will be on the injury site log because the law doesn't require them to list contract workers.

Since 1991 we've known reporting requirements should be changed to include contract workers. The report recommending this was sanctioned by OSHA under the first George Bush's administration.

There is no reason the Republican leadership couldn't allow at least some discussion on the reporting issue today. People have the right to know if they are applying for a job at a facility that has a poor safety record.

We should be talking about real issues instead of making things just a little better for industry. We've known about this problem for 14 years. That's too long to avoid making a simple change to the law to require site-based reporting of injuries.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today to speak in opposition to H.R. 739, a bill to amend the Occupational Safety and Health Act of 1970 to provide for adjudication flexibility with regard to the filing of a notice of contest by an employer following the issuance of a citation or proposed assessment of a penalty by the Occupational Safety and Health Administration. In essence, this bill would amend current law to authorize the Occupational Safety and Health Review Commission (OSHRC) to make exceptions to the 15-day deadline for employers to challenge OSHA citations if the employer's failure to meet this deadline is due to a "mistake, inadvertence, surprise, or excusable neglect."

This would weaken the ability of the Occupational Safety and Health Review Commission to enforce the current deadline and would encourage increased litigation and disrupt OSHA's ability to address workplace hazards in a timely manner. OSHA is already "astonishingly ineffectual" in protecting workers' lives. In the past 20 years OSHA has failed to seek criminal prosecutions in 93 percent of the cases where employers' willful and flagrant safety violations ended up killing workers. (New York Times/December 2003). Furthermore, according to a recent GAO report, since 1996, OSHA has cut resources dedicated to enforcement by 6 percent.

The U.S. lags behind other western nations in protecting workers' lives. A U.S. construction worker is 4 times more likely to be killed on the job than one in Denmark. (Center for Worker Rights 2004). As a New York State Supreme Court Judge observed: "Why Congress has adopted such a spineless response to industrial malfeasance is best left to voters to assess." (Newsday, 1/15/04).

As responsible Members of congress, we cannot afford to vote for this bill. I urge my colleagues to oppose H.R. 739.

Mr. BOEHNER. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. WILSON of New Mexico). All time for debate has expired.

Pursuant to House Resolution 351, the bill is considered read for amendment and the previous question is ordered.

The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BOEHNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION EFFICIENCY ACT OF 2005

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 351, I call up the bill (H.R. 740) to amend the Occupational Safety and Health Act of 1970 to provide for greater efficiency at the Occupational Safety and Health Review Commission, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. TERRY). Pursuant to House Resolution 351, the bill is considered read for amendment.

The text of H.R. 740 is as follows:

H.R. 740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Occupational Safety and Health Review Commission Efficiency Act of 2005".

SEC. 2. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

(a) INCREASE IN NUMBER OF MEMBERS AND REQUIREMENT FOR MEMBERSHIP.—Section 12 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 661) is amended—

(1) in the second sentence of subsection (a)—

(A) by striking "three members" and inserting "five members"; and

(B) by inserting "legal" before "training";

(2) in the first sentence of subsection (b), by striking "except that" and all that follows through the period and inserting the following: "except that the President may extend the term of a member for no more than 365 consecutive days to allow a continuation in service at the pleasure of the President after the expiration of the term of that member until a successor nominated by the President has been confirmed to serve. Any vacancy caused by the death, resignation, or removal of a member before the expiration of a term for which a member was appointed shall be filled only for the remainder of such term."; and

(3) in subsection (f), by striking "two members" each place it appears and inserting "three members".

(b) NEW POSITIONS.—Of the two vacancies for membership on the Occupational Safety and Health Review Commission created by subsection (a)(1)(A), one shall be appointed by the President for a term expiring on April

27, 2008, and the other shall be appointed by the President for a term expiring on April 27, 2010.

(c) **EFFECTIVE DATE FOR LEGAL TRAINING REQUIREMENT.**—The amendment made by subsection (a)(1)(B), requiring a member of the Commission to possess a background in legal training, shall apply beginning with the two vacancies referred to in subsection (b) and all subsequent appointments to the Commission.

The SPEAKER pro tempore. Pursuant to House Resolution 351, the amendment in the nature of a substitute printed in the bill is adopted.

The text of the amendment in the nature of a substitute is as follows:

H.R. 740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Occupational Safety and Health Review Commission Efficiency Act of 2005".

SEC. 2. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

(a) **INCREASE IN NUMBER OF MEMBERS AND CRITERIA FOR MEMBERSHIP.**—Section 12 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 661) is amended—

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(c) **EFFECTIVE DATE.**—The amendment made by subsection (a)(1)(B) shall apply beginning with the 2 vacancies referred to in subsection (b) and all subsequent appointments to the Commission.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) and the gentleman from New York (Mr. OWENS) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 740.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the second bill we will debate is another narrowly-crafted bill

that addresses a specific problem we found in the OSHA law.

For nearly two-thirds of its 30-plus years of existence, the Occupational Safety and Health Review Commission has been undermanned and unable to function properly. Now, because a quorum of two out of the three total commissioners is needed for timely decision-making, the Commission has in the past been unable to act simply because a quorum was not present.

There are a number of reasons for this. The appointment process is sometimes controversial, leading to vacancies, and sometimes commissioners must recuse themselves from considering cases, meaning even if there is only one seat open, there is often no working quorum. For too much of its history, the Commission has been unable to gain a working quorum and, as a result, is simply unable to function, despite being otherwise fully staffed. The Occupational Safety and Health Review Commission Efficiency Act increases the membership of the Commission from three to five members to ensure that cases are reviewed in a timely fashion.

Increasing membership to five commissioners will help ensure that cases are reviewed in a more timely fashion, improving the current system of judicial inactivity that only results in government waste. In short, it will allow the Commission to complete its job by reducing the case backlogs that are as much as 8 years old. Now, the Commission's sister agency, the Federal Mine Safety and Health Review Commission, has 5 panelists, and we have found has worked well in reviewing cases more efficiently. Lastly, the bill permits incumbent members whose terms have expired to stay on until a replacement can be confirmed by the Senate, and most vacancies occur during these turnovers.

The U.S. economy is improving more and more, and employers are hiring new workers each and every month. Last week, the Labor Department reported that 3.7 million new jobs have been created since May of 2003. We want small businesses hiring more workers and contributing to our economy, not facing years of OSHA-related litigation if they cannot resolve it simply because the Commission has an endless backlog of cases. This bill simply ensures that OSHA cases are resolved in a timely and efficient manner, a goal that we all should support. Employers who make good-faith efforts to comply with OSHA standards deserve to be treated fairly and have their day in court, and this measure will help ensure that they receive that opportunity.

Mr. Speaker, I ask my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield such time as he may consume to the ranking member of the committee, the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank him so much for his service to this committee and for his constant support of workers' rights, workers' health and safety, and the protection of their families if they are injured on the job.

The Occupational Safety and Health Act has substantially improved the safety of the American workplace to the benefit of the American worker. Far fewer workers are killed or injured today than was the case before the law was enacted. Despite this progress, too many Americans continue to be sick or injured or killed in workplace accidents that could or should have been avoided.

Every day, 15 workers are killed on the job. Another estimated 50,000 to 60,000 die every year due to occupational illnesses. Hundreds of thousands of workers face serious injuries on the job every year. Liberty Mutual, the largest workers' compensation insurance company, estimates that the direct cost of occupational injuries and illnesses is \$1 billion a week.

Two major workplace tragedies, one in Texas this year and the other in Ohio last year, underscore the need to strengthen, not weaken, the health and safety laws of this country.

On March 23 of this year, a huge explosion at the BP Amoco Texas City refinery killed 15 workers and injured 170 others. Although BP initially blamed contract workers for the explosion, it now appears that faulty equipment played a major role in this catastrophic blast. As it turns out, the BP Amoco refinery in Texas City has been a repeat safety violator.

Repeat safety violations also played a key role in the deaths of four iron workers when a massive bridge crane collapsed near Toledo, Ohio, in 2004. The contractor Fru-Con failed to address urgent issues with anchoring the crane properly raised by the crane's European manufacturers. OSHA fined Fru-Con \$280,000 and cited the contractor for willful safety violations.

Rather than taking decisive action on behalf of hardworking employees, like increasing the minimum wage, stopping runaway pension terminations or expanding access to health care, these bills do nothing more than jeopardize the health and safety protections of employees on the job.

H.R. 742 significantly diminishes the protections of Occupational Safety and Health by discouraging OSHA from even enforcing the Occupational Health and Safety Act and punishing taxpayers unless the agency, like Perry Mason, can win every case. That simply is not going to happen, and this bill weakens workers' protections.

H.R. 740 unnecessarily expands the size of the Occupational Health and Safety Review Commission, and H.R. 741 weakens the fundamental responsibilities of the Secretary of Labor. It contorts the law and confuses enforcement responsibilities of both the Secretary and the review commission.

Finally, H.R. 739 creates a legal loophole for employers' obligations to meet the 15-day deadline for contesting an OSHA citation or notice of a failure to abate a hazard. The deadline for an employer's response was set at the 15-day mark to encourage both a timely correction of cited workplace hazards and expediting the handling of cases. The commission already has the authority to review any missed deadlines on a case-by-case basis in a manner that protects both employers and workers.

We have an obligation to help hard-working Americans and their families to have a safe and healthy workplace. These bills do the opposite. Taken together, these bills will significantly weaken OSHA enforcement laws, and I urge my colleagues to oppose H.R. 742, 741, 740 and 739.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the previous speaker. I know he is really busy today and had to go "no" on all four bills, but maybe I can refocus us just a little bit and explain that we are on one bill right now, and it is a very simple bill. It is H.R. 740, the Occupational Safety and Health Review Commission Efficiency Act of 2005. Maybe we can concentrate just on this bill now for this hour and understand that this is a badly-needed change in OSHA unless you do not believe OSHA ought to work, unless you do not believe that the OSHA Commission should be in place.

This legislation is especially timely. In April, the Occupational Safety and Health Review Commission's term expired, placing the Commission in the same position it has been in for almost two-thirds of its existence; now, listen to me: almost two-thirds of its existence for the last 34 years undermanned and unable to function properly. Well, why is that important? It is not. It is only important to someone who has a citation hanging over their business, hanging over their head, and you cannot get the review commission to operate. It is clearly, after 34 years: No, we understand it does not work. Half of the time they cannot do business.

H.R. 740, the Occupational Safety and Health Review Commission Efficiency Act, increases the size of the Occupational Safety and Health Review Commission from three members to five. My goodness. We really need to spend a lot of time debating this.

□ 1515

We are actually going to change this commission, like most commissions in the Federal Government, and change it to five members so it finally can do the job that the Congress in 1970 wrote into the law they wanted it to do. What an extreme bill this is.

The bill changes the quorum requirements from two members to three members, and allows the President to consider legal training, in addition to education and experience, as criteria in selecting an individual to serve on the board.

Finally, H.R. 740 allows a confirmed member of the commission to continue to serve for up to 365 days to prevent the breaks in service that occur when a Senate confirmation is not concluded in a timely manner. Does that mean every time somebody retires this commission goes out of business, because we cannot get the Senate to do its job? That does not matter to anybody except the small business who has a citation hanging over their head that the government will not deal with.

The committee heard testimony in the 108th Congress that because of the vacancies, the commission has been nonfunctioning for two-thirds of 30-plus years of its existence. Now, listen to that, for pity sakes. The commission that you are trying to protect has been nonfunctioning for two-thirds of the 30 years of its existence. Why in the world would you want to protect the present-day system?

Given that the creation of the commission was the catalyst for the passage of the OSH Act in 1970, there never would have been an OSHA had not this particular provision been in this review commission. And now you do not want it to work. We are trying to change that.

I believe it is important to prevent the commission from being stalled and unable to rule on cases when there is a gap in appointees. That does not serve employees or small employers well at all.

Let me make one final point. My colleagues on the other side have been very critical of the inclusion of legal training as a qualification for commissioners, criticism that I cannot understand.

Mr. Speaker, OSHRC is an adjudicative body. Legal training is therefore important because the commission writes opinions that will be reviewed by the courts if a finding is challenged. I would certainly think our Democratic lawyers would agree and understand that. But I would note that legal training is but one of three criteria the President could review before appointing a commissioner, that would mean a Democratic President or a Republican President.

Nothing in this bill suggests or requires that every member of the commission be a lawyer. The simple fact of the matter is this: when the commission is unable to rule on cases, resolution does not occur in a timely manner. That is unfair and that is wrong.

This is unfair to all parties and drastically undermined congressional intent from 1970. In the 108th Congress this bill passed the full House with bipartisan support by 228 to 199.

I urge passage again this year. And I will say, if you live in a district where there are no small businesses in that district, then I would vote "no" on this. But if I had any small businesses in my district, I would give it some serious consideration.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise in opposition to H.R. 740 because workers deserve to know that their interests will be heard without biased judgment by the Occupational Safety and Health Review Commission.

Grieving families across America depend on OSHA to stand up for them and for their deceased and injured loved ones. But this legislation will threaten one of the only hopes that families have for justice when a loved one is harmed at work.

By increasing the membership of the commission from three to five, the administration could actually play politics with the commission, filling it with antiworker safety appointees, making it more difficult to reach a quorum than now. The very idea that it is simpler to get a three-member quorum than a two-member quorum makes no sense. If you cannot fill a quorum when you only have three, how are you going to fill it when you have five?

Since President Bush took office, it has been really clear that he intends to use OSHA to protect employers rather than employees when addressing worker safety. Why then would we believe that he would appoint members to the commission that would steer the commission toward helping the employee rather than the employer?

Employees need to know that business interests are not the primary basis of the OSHA Review Commission. The size of the OSHA Review Commission has no meaning in the face of employee health and safety, in the face of death and injury. What does it matter to the worker the size of the business or how many members sit on a commission? Death is death. Injury is injury. That is what we should be talking about, protecting our workers.

Mr. Speaker, this legislation is not what workers need or want. Their grievances must be taken more seriously than these little fixes here and there in the OSHA review. If you cannot sit three members, why could you sit five? Think about it. That is why I urge my colleagues to oppose H.R. 740.

Mr. NORWOOD. Mr. Speaker, I yield myself 1 minute. I would just like to mention to the gentlewoman from California (Ms. WOOLSEY) that this bill is not about death. It is simply about making OSHA work, making the commission work. It is as simple as that.

If you want to be against making OSHA actually work, and the review commission doing the job that the Democratic Congress wrote in the bill in 1970, then vote "no."

Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Georgia (Mr. PRICE).

Mr. PRICE of Georgia. Mr. Speaker, I once again want to commend the gentleman from Georgia (Mr. NORWOOD) for his wonderful and excellent work in the area of worker safety and his real

concern for making certain that the rules under which we ask businesses and employees to work are workable.

We are all interested in workplace safety. We have got to get that on the table as often as possible. We are all interested in workplace safety.

Now, the gentleman from California (Mr. GEORGE MILLER) made some very moving and interesting points. The problem is, they do not have a thing to do with this bill, not a thing to do with this bill. We have just heard that grievances should be heard. That is a concern of somebody opposed to this bill, that grievances should be heard.

Well, we agree. The grievances should be heard. But as you heard from the gentleman from Georgia (Mr. NORWOOD), two-thirds of the time the commission has been unable to sit for a variety of reasons, not the least of which they have been unable to seat a quorum.

And then the question is raised: If you cannot sit three, how can you sit five? No, the question is, if you cannot sit two, how could you sit three? Well if you add two people to the commission, to the review commission, then it makes all of the sense in the world that you have made it easier to reach a quorum.

Mr. Speaker, I think it is also important that we keep in mind the magnitude of the discussion that we are talking about and why these things need to be fixed: 99.7 percent of all business is small business, 99.7 percent. And 75 percent of all new jobs in this Nation have been created in small businesses.

Small business owners, they work hard and they drive our economy. In this instance, regarding 740, I rise in support of H.R. 740 because if those small business owners are not working, they are not producing. If they are not producing, then jobs are not being created.

Once cited by OSHA, an employer deserves his or her expeditious day in court. And with the current membership of the review commission, it is often, we have heard extremely often, difficult to end that process. There are some cases that are before the commission right now that have been there for over 10 years, over 10 years. That is not fair to employers; that is not fair to employees.

So I rise and say that increasing the review commission will help small businesses, and it will increase the safety of workers; and I urge my colleagues to support H.R. 740.

Mr. OWENS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Speaker, I thank my friend from New York (Mr. OWENS) for yielding me this time.

Mr. Speaker, I would be remiss if I did not tribute my friend from New

York (Mr. OWENS) for his years of advocacy for working people generally and in worker safety specifically.

Year after year, month after month, the gentleman from New York (Mr. OWENS) has come to this floor and raised these issues with great clarity and passion, and we very much appreciate his contribution in this area.

Mr. Speaker, I also appreciate the efforts of my friend from Georgia (Mr. NORWOOD) who is the author of the bill. I never thought I would see the day, I must say, Mr. Speaker, to the author where he would propose a bill that could create two jobs for lawyers.

On behalf of our profession, I guess we have to express our appreciation. I do want to note my three bases of objections to the bill. The first is it does provide the opportunity for what we might call court packing. It does provide the opportunity by expanding the commission from three members to five, that we would find a fishing expedition for two members that would be more attuned to the ideological predilection of the administration.

I do not think either a liberal or conservative administration should have the right to pack the commission. I think expanding to five members runs that risk.

Secondly, I am concerned about the undue reliance upon legal training. The language of the bill does not expressly require the appointment of lawyers, but it does indicate that the principal consideration for appointment is legal training or the lack thereof.

There are many positions in the Federal administrative service that are very complex that are adjudicatory in nature that do not require formal legal training, and I do not believe that these positions should either.

I would note for the record that none of the nonlawyers appointed to this commission in its history have been appointed by Democratic administrations. All of the nonlawyers appointed, to my knowledge, have been appointed by Republican administrations. So my objection is not partisan or ideological. I think that the door should be wide open for people of all backgrounds and ability to serve on the commission provided they are qualified.

My third objection has to do with what appears to be a minor provision, but could be a major provision. It appears that the language would permit two members of the commission, now it is expanded to five, only two members of the commission to transact business on behalf of the commission.

I do not know of really any other decisionmaking body in the Federal structure where a minority of the members can make an affirmative decision. I know of institutions where a minority can veto a decision, but I am not familiar with a situation where two members out of five could in fact act on behalf of the commission. I have a concern about that as well.

So for these reasons I would urge opposition to the bill.

Mr. NORWOOD. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman from New Jersey (Mr. ANDREWS), my good friend, and believe me he is, I want him to be well aware that I am not certainly trying to hire two lawyers. You can be certain of that.

But we do think some legalese is advisable on the commission. But being a lawyer is only one of three criteria. I know that you know that. The other part that I just want to mention to you is that when we changed this commission to have five members so it actually will work, if you have got a better idea how to make a commission work that is totally useless right now, with three members, of course I have always been open to hear that, but we think five may well do it; but it will take three members to form a quorum, not two.

That is for sure. I appreciate you bringing that up so I can clarify that.

Mr. Speaker, I reserve the balance of my time.

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to sum up and repeat, because I think it deserves repeating. First and most importantly, no one has really shown a need to increase the size of the commission from three to five members. We find it very unusual that the majority party with great emphasis on saving dollars on education and a number of much needed programs, wants to waste a little money on two additional members, create a little bit more of a bureaucracy by having two more members to make a decision. Instead of five people, three people can make this decision.

They have been functioning with three members since the creation in 1970. Why should it be any different now?

□ 1530

Given the enormous deficit spending promoted by this Republican majority, there is no real purpose in adding members and swelling the ranks.

Last but not least, I find it quite ironic also that my colleagues on the other side of the aisle want to tack on the requirement that the commission members have legal training. I think you have heard the expression that our colleague, the gentleman from Georgia (Mr. NORWOOD), often makes about the government being over burdened with lawyers. So I am surprised to hear that the leaning of this bill as we read it would certainly require more appointment of lawyers or somebody similar to lawyers. There is no demonstrated need for such a requirement. There is no demonstrated need for this particular addition to the bill.

The capacity of OSHA to produce cases is steadily shrinking as a result of the steady chip-away strategy of the Republican majority. They have chipped away at the budget every year. OSHA is far smaller and far less effective than it was when the Republican

majority took power in the House. Certainly that was accelerated when the Republicans took control of the White House as well as the House.

So OSHA is under attack in a way which produces less work for such a commission. Why should we increase the size of the commission when there is less work for it? It is part of the pattern to chip away in every little way and trivialize what OSHA is all about. At the same time, the only parts of the Department of Labor that are being increased are those parts that are aimed at attacking organized labor, the organizations that represent working families. We happen to know there is a great push on to drive the unions into the ground with trivial audits, financial audits mostly, of petty cash, the receipts for cab fare and receipts for lunch. Various efforts are underway at this point to force labor unions to defend themselves from bookkeeping errors.

The same kind of zeal needs to be expressed in the way that OSHA is staffed and manned to provide the basic necessities to keep our workplace safe for our workers.

Let us just discuss for a moment the 2,578 OSHA violations in Georgia in 2002. The Occupational Safety and Health Administration in 2002 issued an average of seven citations a day to Georgia businesses that year. OSHA found 2,578 violations of its rules during 1,481 inspections of companies operating in Georgia and documented more than 50 workplace deaths in that year.

In 2001, OSHA issued 2,962 citations, more than eight a day, and 1,596 inspections in Georgia. So 2002 had improved a bit from 2001. But I think it would be good if Members got in touch with what is happening in their States and in their districts.

The Atlanta Business Chronicle documented this information in an article published March 23, 2003. At that time, the Atlanta Business Chronicle had documented safety concerns in three of Georgia's largest companies, the Home Depot Incorporated, the Georgia Pacific Corporation, and United Parcel Service Incorporated. But as OSHA records show, safety is a widespread concern among many Georgia companies.

On February 24, OSHA issued a list of 14,200 U.S. facilities that had accident and illness rates at twice the national average. The national average is about three illnesses or injuries for every 100 workers that are serious enough to cause employees to lose time from work. Included in OSHA's list were 563 workplaces in Georgia, and more than 200 of them were in the Atlanta metropolitan area. Wal-Mart stores, the Nation's largest retailer, had the largest single number of Georgia facilities on the list, 11. Of the companies based in Georgia, United Parcel Service had the most facilities on the list with 174 nationwide.

Out of all the Georgia companies during 2003, Durango-Georgia Paper Com-

pany in St. Mary's was fined the most by OSHA. OSHA assessed Durango-Georgia \$258,000 after an August 19 boiler explosion that killed two workers and injured one. OSHA found 48 violations during an investigation of that accident. In addition to the safety violations that contributed to that explosion, OSHA cited the company for allowing employees to work at heights of up to 50 feet without fall protection and for requiring employees to stand on a conveyor belt to remove jammed logs without adequate protection against being caught in a machine.

It was not the first large fine against that paper manufacturer. OSHA fined the company \$157,000 after an accident had resulted in the double amputation of a worker. In 2000, the company had paid \$220,250 for 12 citations. The pattern goes on and on.

The American workplace is not a safe place. It becomes more complicated all the time. The new chemicals, new machines, and new challenges, the building of houses, buildings and facilities at higher heights, for example all lead to complications. We talk about small businesses, and it is true that a large number of construction businesses are small businesses. That does not make the work that their workers do any less dangerous. The fact that they are a small business does not remove the fact that their workers must use scaffolding. Small business workers have trenches that they dig. They are doing work that is very dirty and very dangerous. The workers in small construction firms deserve protection.

Small contractors are also the ones who are most likely to disobey immigration laws and have large numbers of people who are illegal immigrants working in their facilities. And therefore, I have noted before we have a noticeable large number of deaths of immigrants in the construction industry. And this is not confined to Georgia or any one State. This spreads right across the country.

The employers of construction companies know that they can save money by disobeying the law and using illegal immigrants. So it has become a major problem. Again, the working families of America deserve better.

We have come to the point where our economy is compared to other economies in our global partnerships around the world. We compare ourselves and say, Oh, it is awful that we cannot compete better with China. Well, China was organized as a country which has dictatorship of the proletariat. Dictatorship of the proletariat meant workers were going to be in charge. All of the unions in China are collapsing to the government. China produces a large part of its consumer goods in prisons. They produce a large part of their consumer goods in factories where workers are paid less than a dollar a day.

It is not useful for us to invoke the third world countries, the developing countries and China—I do not know what China would be categorized as—

with exploiting companies and decide that we ought to be more like that so we can be more competitive. Some allege that one way we can be more competitive is to make the workplace less safe, by providing employers with a situation where they do not have to worry about workers' safety. China—as a dictatorship—can do what they want to with their workers. They can continue, as I pointed out, pay workers the lowest possible wages, and they can also not spend any money on guaranteeing worker safety.

So given the fact that we are on the floor for the second time in 2 years with these four bills, it is an opportunity for us to educate our colleagues as to the seriousness of the current situation in the American workplace today. We must be more sensitive to the fact that our working families are out there suffering. Our health care situation does not get any better. We need to come to the rescue of private enterprise in terms of their pension funds collapsing. And their health care systems are so expensive that they are now calling for help from the government.

All of this is part of a threatening and more intimidating atmosphere that mushrooms all the time against the interests of working families. And the attack on OSHA, which is consistent, the harassment of OSHA, the downgrading of OSHA, the chip-away erosive effect of OSHA is all part of that pattern.

A Department of Labor which declares it has no money to really have an OSHA that functions appropriately is the Department of Labor which has managed to spend a great deal of money on the faith-based initiative. We noticed that large amounts of money from the Department of Labor have gone to faith-based initiatives over the last few years, and that is a great mystery as to how that money was doled out, under what criteria was it given to certain faith-based organizations. I think one got more than \$1 million. It was on the front page of the New York Times. The Department of Labor had given a grant to one faith-based group for more than \$1 million, and we do not know what it is the DOL is doing here. This all happened right before the November 2004 election. So the Department of Labor is being used for some good purpose for some group or some persons, but it is certainly not being used as the advocate for working families. And today's exercise is just one more example of how the drum beat goes on. The effort continues to minimize and trivialize that which is most important for working families in this country.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. BACA).

(Mr. BACA asked and was given permission to revise and extend his remarks.)

Mr. BACA. Mr. Speaker, I rise in opposition to H.R. 740 and the three other OSHA bills under consideration today.

Republicans are suggesting that our laws are hurting American jobs and productivity. How can that be so when we continue even now to push for CAFTA that would outsource additional jobs outside of this area, not to mention many of the other jobs that we have lost? It is untrue. It is bad enough that millions of Americans are being shipped overseas. We cannot afford to lose any more jobs. We have got to keep them here in the United States.

Now the Republicans want to weaken the protection that exists for our Nation's workers, our Nation's workers, working families and others who deserve the right.

Last year, Republicans passed FCC and ETI, a bill that gave tax breaks to companies that moved to China and India, and I state that, moved to China and India. Half the time the consumers do not know who they are talking to when they pick up the phone because they are from some other company.

Republicans need to stop confusing people on the reason why jobs are leaving the mainstream and are being sent to mainland China. We should put the blame for losses in California and across the country where it belongs, and I state where it belongs. They failed, the policies of this administration, the President's so called compassionate conservatism has cost us 3 million jobs, and I state, 3 million jobs. That is American jobs that we could put on working families. Please end this compassion.

Remember that it was the President Bush's top economic advisors who claimed that sending American jobs overseas is a good thing. Well, we know it is not a good thing to American workers here and what it does to them.

Weakening American labor standards and allowing American workers to be exploited as they are in third world countries is not the solution. That type of thinking would put boys and girls out of the classroom and into the coal mines? These four bills are anti-worker, and I state, anti-worker, anti-safety, and they weaken the health and safety laws. And they hurt the American workers and working families.

H.R. 739 weakens enforcement of the health and safety legislation by dragging out the debate for imposing penalties.

H.R. 740 weakens worker protection by packing commissions with partisan appointees who agree with the President's anti-workers agenda, and I state, partisan appointees who agree with the President's anti-workers agenda.

H.R. 741 encouraged frivolous challenges to labor law rules and interpretation. H.R. 742 requires OSHA to pay attorneys fees for employers that win cases against OSHA.

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However, these companies do not pay OSHA when they lose. Therefore, employers have nothing to lose by challenging those violations in court.

The real losers under this legislation are the American taxpayers, American workers, American families in this country, American people who work to make our country great.

As you can see, all four bills are antiworker laws, and the only way to justify them is to trump up charges that worker protection laws are costing American jobs and hurting American productivity. That is not true, because it is American families, American workers who have made this country great. We need to keep them here, and we need to protect them here in the United States.

Mr. Speaker, I urge my colleagues to oppose all four of these anti-OSHA bills.

Mr. Speaker, I rise in opposition to H.R. 740 and the other three OSHA bills under consideration today.

Republicans are suggesting that our laws are hurting American jobs and productivity.

This is untrue. It's bad enough that millions of American jobs are being shipped overseas.

Now Republicans want to weaken the few protections that exist for our Nation's workers.

Last year, Republicans passed the FSC/ETI bill that gave tax breaks to companies that move to China or India. Republicans need to stop confusing people on the reasons why jobs are leaving Main Street and being sent to mainland China.

We should put the blame for job losses in California and across the country where it belongs: the failed policies of this administration. The President's so-called compassionate conservatism has cost us 3 million jobs. Please end the compassion!

Remember that it was President Bush's top economic advisor who claimed that sending American jobs overseas is a good thing.

Weakening America's labor standards and allowing workers here to be exploited as they are in third world countries is not the solution. That type of thinking would take boys and girls out of the classroom and into the coal mine.

These four bills are anti-worker and anti-safety. They weaken health and safety laws and hurt American workers.

H.R. 739 weakens enforcement of health and safety regulations by dragging out the date for imposing penalties.

H.R. 740 weakens worker protections by packing the commission with partisan appointees who agree with the President's anti-worker agenda.

H.R. 741 will encourage frivolous challenges to Labor Department rules and interpretations.

And, H.R. 742 requires OSHA to pay attorney fees for employers that win cases against OSHA. However, those companies do not pay OSHA when they lose. Therefore, employers have nothing to lose by challenging most violations in court.

The real losers under this legislation are American taxpayers and American workers.

As you can see, all four bills are anti-worker laws. The only way to justify them is to trump up charges that worker protection laws that are costing American jobs and hurting American productivity.

Mr. Speaker, I urge my colleagues to oppose all four of the anti-OSHA bills.

Mr. NORWOOD. Mr. Speaker, how much time do we have left on each side?

The SPEAKER pro tempore (Mr. TERRY). The gentleman from Georgia (Mr. NORWOOD) has 17½ minutes remaining, and the gentleman from New York (Mr. OWENS) has 4½ minutes remaining.

Mr. NORWOOD. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. TIAHRT).

Mr. TIAHRT. Mr. Speaker, I thank the gentleman from Georgia for yielding me this time and for his leadership.

Mr. Speaker, we just heard about how antiworker this legislation is, as well as the other three bills; but I would like to clarify a few things. This is not an antiworker agenda. What this does is simplify the rules that govern OSHA.

Now, there seems to be some thought that this legislation is going to make it more dangerous for workers or that it is antiworker, and that is really not the case. What we are trying to do is smoothly process the help that OSHA should be giving to employers for a safe workplace. There is no economic benefit for employers or those who keep and create jobs in America to want injured workers.

Quite the contrary. If a worker gets injured on the job, their insurance rates go up, there is loss of productivity, and quite often, small employers especially, hire family members. The last thing they would want to do is to go to the next family reunion and explain why their brother-in-law or their sister or some member of their family was injured on the job.

What we would like to see is a cooperative effort between the OSHA folks and people who keep and create jobs in America, working together for a safe work environment. One of the ways you do that is you have the timely processing of cases so that you do not have a backlog. This particular bill would simply help that backlog be alleviated.

This is a pro-worker piece of legislation. It does more to keep and create jobs in America than anything I have heard from the opposition both today and for the balance of this year. So I am very pleased to be supporting this piece of legislation.

I want to make the point that it is a pro-worker agenda that we are moving forward here because it will help us keep and create jobs in America.

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

The two speakers prior to me have raised the question of outsourcing, and other people have challenged the relevancy of that topic to this particular set of bills. Every statement I read from industry complaining about the competitive edge that other nations have mentioned the fact that our environmental laws and our safety laws and our minimum wage, that combination, puts them at a disadvantage. So it is logical to conclude that part of the exercise today is to take away one of those disadvantages, to the degree it can be accomplished. And if you have

to chip away at it with bills like this and remove worker safety as an expense that has to be undertaken. This civilized nation was built by workers and the workers deserve to have a fair break. But those that want to reduce us to the level of Third World nations or want to imitate China are going to pursue the kinds of bills that we have before us today.

So I want to just conclude with another section from the report of the AFL-CIO, their annual report on worker safety. I just want to read a few excerpts, which I think are excerpts that are important to educate our Members.

More than 306,706 workers can now say their lives have been saved since the passage of the OSHA Act in 1970. Unfortunately, too many workers remain at risk. On average, 15 workers were fatally injured and more than 12,000 workers were injured or made ill each day of 2003. These statistics do not include deaths from occupational diseases, which claim the lives of an estimated 50,000 to 60,000 workers each year.

According to the Bureau of Labor Statistics, there were 5,559 workplace deaths due to traumatic injuries in 2003, which was a slight increase from the number of deaths in 2002, when 5,534 workplace deaths were reported. Wyoming, of all places, led the country with the highest fatality rate, 13.9 people per 100,000. The lowest State for the fatality rate was 1.5 per 100,000, which was reported in Delaware.

The construction sector had the largest, as I said before, the construction sector had the largest number of fatal work injuries, 1,126 in 2003; followed by transportation and warehousing, which had 805 injuries; and agriculture, forestry, fishing and hunting, which had 707 injuries. Industry sectors with the highest fatality rates were agriculture, forestry, fishing, and hunting, 31.2 per 100,000 in hunting. Mining had 26.9 per 100,000. And transportation and warehousing, 17.5 per 100,000.

So you can see we are not here just to talk in support of the blue States, the urban States, the Rust Belt States; but the rural areas are suffering quite a bit also. The workers there—the rural areas—suffer in terms of the large number of fatalities in the workplace.

Transportation and material-moving occupations had the highest number of fatalities, 1,388, followed by construction and extraction occupations, with 1,033 fatal injuries. The occupations of greatest risk of work-related fatalities based on the number of fatalities per 100,000 employed were logging workers. Their occupation had 131.6 fatalities per 100,000; fishers and related fishing occupations had 115 deaths per 100,000; and aircraft pilots and flight engineers, 97.4 deaths per 100,000 employed.

Very interesting that simple guys out there, fishers and logging workers, are in the same category as aircraft test pilots and flight engineers in terms of deaths and injuries. So our

concern is universal, and the mission of OSHA is important and should not be denigrated or trivialized by this kind of legislation.

Mr. NORWOOD. Mr. Speaker, I yield myself the balance of my time.

I do wish my friend, the gentleman from New York (Mr. OWENS), would get the AFL-CIO to send him talking points just on this bill. That is what we have this hour for, to discuss this one bill, where we actually are trying to make OSHA work.

Now, I will go over it again. This is about an agency called OSHA that has a review commission made up of three people. This review commission was written into the law in 1970, written into the law by a Democrat House and Senate that simply said OSHA did not get to be the judge and jury. They do have the right to set the standards. They can write the regulations and enforce the regulations, but they are not to be the final judge and jury. OSHRC is. The review commission is.

Now, what we find is the commission is not working. It does seem to me that some people do not want it to work. I am not sure I know why, but to stay with a bill that is 34 years old and just like it is, thinking it is perfect, when we absolutely know that it is not. For more than two-thirds of its existence, this commission has been paralyzed by frequent vacancies and often been unable to act. Two-thirds of the time in 34 years this commission has been unable to act. For more than half of its existence, it has had two or fewer members. For 20 percent of that time it lacked even a quorum of two.

Now, why does the AFL-CIO or the labor bosses not want this to change? I do not know, but you misread it if you say working families do not want this kind of change. Because most working families in this country are in small business. And tell you the truth, many labor union members also have small businesses with their wives and sometimes themselves as a second job.

You take it on yourself to tell us what the majority party wants. Well, this is simple what we want in this bill: We want a review commission at OSHA that works. It is just that simple. We do not want any more or any less. That is all this bill is about. We believe having five commissioners will help aid that process.

Mr. Speaker, I urge all our Members to just simply come to the floor and remember what this is about. This is a small tweak in a 34-year-old bill that is not working, and it does not help anybody. It does not help workers, and it does not help employers to not pass this little thing to help this agency work.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to speak in opposition to H.R. 740, a bill to amend the Occupational Safety and Health Act of 1970 by expanding the size of the commission that hears OSHA appeals from three to five members. Supporters of the measure argue that the panel has had difficulty meeting a quorum because of recusals

and vacancies. However, I would argue that the change would allow the current Administration to stack the board with pro-business members.

Many responsible employers are tired of continually being underbid by unscrupulous and reckless operators that refuse to spend anything on protecting workers' lives or promoting public safety. Voting in favor of H.R. 740, could potentially erode a basic respect for human life. We must remember that workers killed on the job are someone's son or daughter, husband or wife, and/or father or mother. Unlike other victims of crime, their lives are often seen as expendable. As a Mexican Consular officer said: "Too many employers don't see these people as human beings." Bereaved family members suffer further upon discovery that federal law denies them justice. If H.R. 740 is allowed to pass, we would be allowing the current Administration to stack the board with pro-business members. I urge my colleagues to oppose the passage of H.R. 740.

Mr. NORWOOD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired. Pursuant to House Resolution 351, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OWENS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

OCCUPATIONAL SAFETY AND HEALTH INDEPENDENT REVIEW OF OSHA CITATIONS ACT OF 2005

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 351, I call up the bill (H.R. 741) to amend the Occupational Safety and Health Act of 1970 to provide for judicial deference to conclusions of law determined by the Occupational Safety and Health Review Commission with respect to an order issued by the commission, and ask for its immediate consideration in the House.

The Clerk read title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 351, the bill is considered as having been read for amendment.

The text of H.R. 741 is as follows:

H.R. 741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Occupational Safety and Health Independent Review of OSHA Citations Act of 2005".